IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9775 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SHAILESH RAMSING MOD

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 9775 of 2001

MR IS SUPEHIA for Petitioner No. 1

MS HARSHA DEVANI, AGP for Respondent No. 1

NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 01/02/2002

ORAL JUDGEMENT

#. Rule. Ms.Devani, learned AGP waives service of rule for the respondents. With the consent of the parties,

the matter is taken up for final hearing today.

#. The father of the petitioner died on 19.8.1999 while he was in service. He was working as a Superior Field Worker. After his death, the petitioner has applied for compassionate appointment. The application was made by one Kokilaben who is a wife of the deceased employee. She has prayed for compassionate appointment of her son, who is the present petitioner herein. That application was rejected on the ground that income of the family of the deceased is more than Rs.2500/-.

#. While calculating the income of the family of the deceased as per the certificate at Annexure-D, pension income of Rs.2295/- is also taken into consideration. In view of the series of judgments of this court, while considering the question about quantum of the income of the family of the deceased, pension income is not required to be taken into consideration. The petitioner has also annexed one of such orders to the petition passed in Special Civil Application No.6519 of 2001 at Annexure-E to the petition. In that view of the matter, the matter is remanded to respondent No.1. The respondent No.1 may take appropriate decision again to find out whether the benefit of compassionate appointment is to be given to the petitioner. However, while deciding the question about income of the family of the deceased, pension income may not be taken into consideration. The authority is free to take, any other point, into consideration while deciding the question about income of the family of the deceased. Fresh decision in this aspect may be taken within a period of three months from the date of receipt of the writ of this court.

#. In view of what is stated above, the petition is allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

(P.B.Majmudar,J)
(pathan)